BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Federal–State Joint Board on Universal Service	CC Docket No. 96–45 DA 98–2410

REPLY COMMENTS
of the
GENERAL SERVICES ADMINISTRATION

GEORGE N. BARCLAY
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
1800 F Street, N.W., Room 4002
Washington, D.C. 20405
(202) 501–1156

Economic Consultants:

Snavely King Majoros O'Connor & Lee, Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005

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Summary

In these Reply Comments, GSA responds to requests by several carriers that the Commission continue the present jurisdictional division of responsibility for support to high–cost areas. GSA explains that the Joint Board's proposed plan is structurally preferable to the current procedures for addressing the nation's overall universal service needs, but the plan must be specified in greater detail before it can be implemented.

GSA also explains that in spite of claims by several carriers, it is essential to employ forward–looking costs in determining the requirements for high–cost support. While some refinements in the forward–looking cost models would be beneficial, the use of embedded costs would thwart competition, encourage uneconomic entry into telecommunications markets, provide subsidies for incumbent carriers, and burden consumers who will be required to pay for the program.

In addition, GSA explains that the Commission should not accept the recommendations by some carriers to adopt the Joint Board's plan for evaluating universal service requirements by averaging costs over study areas. Averages for such large and diverse regions will not be representative of the costs or the competitive conditions in most of their constituent parts. Also, as demonstrated in comments by state regulators, approaches that employ averages for smaller geographical areas are more equitable and more specifically targeted to the needs of high–cost areas.

Finally, GSA explains that the Commission should prescribe specific guidelines concerning the levels and descriptions of charges that are levied on end users for universal service. For example, carriers should not be required to pass through universal service assessments, because this policy would prevent potential reductions in telecommunications charges that will benefit all users.

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The General Services Administration ("GSA") submits these Reply Comments on behalf of the customer interests of all Federal Executive Agencies ("FEAs") in response to the Commission's Public Notice ("Notice') released on November 25, 1998. The Notice invites comments and replies on the Second Recommended Decision adopted by the Federal–State Joint Board on Universal Service ("Joint Board") on November 23, 1998 ("Recommended Decision"). In the Recommended Decision, the Commission addresses procedures for implementing high–cost support mechanisms in the service areas of non–rural telecommunications carriers.

I. INTRODUCTION

The Telecommunications Act of 1996 ("Telecommunications Act") recognized the need for new initiatives to preserve and advance universal service.[1] In response to this directive, the Commission and state regulators have been developing policies to ensure that all individuals have efficient access to modern telecommunications

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1 Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56, amending the Communications Act of 1934, 47 U.S.C. § 151 *et seq.* ("Telecommunications Act").

networks. As a step in formulating approaches to ensure universal service, the Joint Board recently released a report containing recommendations for implementing support mechanisms for non–rural carriers. The Notice seeks inputs on these recommendations from all parties with interests in telecommunications.

GSA submitted Comments on December 23, 1998 addressing many of the recommendations by the Joint Board. In those Comments, GSA urged the Commission to transition to a procedure that eliminates arbitrary assignments of non–traffic sensitive ("NTS") costs by explicitly recognizing these costs as a distinct cost category.[2] The proposal described in the Recommend Decision — removing NTS costs from the interstate/intrastate cost allocation procedure for the purpose of determining high–cost support obligations — is a significant step in the transition process.

In its Comments, GSA also urged the Commission to determine the requirements for high–cost support on the basis of forward–looking costs.[3] GSA explained that forward–looking cost estimates should be obtained by using proxy cost models, with several improvements identified previously in this proceeding.

Although most of the Joint Board's recommendations will be beneficial, GSA urged the Commission to reject its recommendation to assess the needs for high–cost support by averaging costs over study areas. Averages for such large regions will not be representative of the costs or competitive conditions in most of their constituent parts.[4] Finally, GSA urged the Commission to provide strict guidance to carriers concerning recovery of universal service contributions from consumers.[5] Any line item

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2 Comments of GSA, p. 5.

3 *Id.*, pp. 6–9.

4 *Id.*, pp. 10–13.

5 *id.*, pp. 14–17.

charges to meet the alleged universal service obligations should not exceed the unit assessment, or a proportionate share of a carrier's total obligation.

More than 25 parties in addition to GSA submitted comments in response to the Notice. These parties include:

- all 5 Regional Bell Operating Companies ("RBOCs");
- 7 additional local exchange and interexchange carriers;
- 7 carrier associations;
- 6 state regulatory commissions submitting comments individually; and
- a group of 8 state regulatory commissions submitting joint comments in this proceeding.

In these Reply Comments, GSA responds to the positions advanced by these parties.

II. THE COMMISSION SHOULD REJECT PROPOSALS TO CONTINUE THE JURISDICTIONAL DIVISION OF RESPONSIBILITY FOR HIGH–COST SUPPORT.

A. The Joint Board has outlined a sound procedure for apportioning the responsibility for support to high–cost areas.

The present high–cost assistance program employs procedures for allocating non–traffic sensitive ("NTS") local loop costs between the interstate and intrastate jurisdictions. These costs reflect the cable, poles and other facilities that link each telephone customer's premises to the public switched network The allocation of these costs between the two jurisdictions is arbitrary because local access facilities are used to originate and terminate both intrastate and interstate calls, and the costs of the facilities do not vary with the relative or total amount of traffic.

The high–cost assistance program was initiated during the period when the allocation factor was being transitioned from a variable percentage to a fixed assignment of 25 percent of NTS costs to the interstate jurisdiction. Consequently, in the *Universal Service Order* released in 1997, the Commission decided that Federal high–cost support would be based on 25 percent of the total local loop costs.[6] In the current Recommended Decision, the Commission proposes to avoid the use of any allocation procedure in determining the respective Federal and state high–cost support requirements.[7]

The Recommended Decision outlines a plan to replace the current jurisdictional division process with a new two–step procedure.[8] As the first step, the Commission would determine whether the cost of serving a study area is significantly above a national average, and if so, compute the total amount of support necessary. Second, the Commission would determine whether the state has sufficient resources to provide the financial support necessary. If the state lacked the resources to keep telephone rates "reasonably comparable" to the national average, the Federal mechanism would provide the funds needed to accomplish this objective.[9]

GSA explained in its Comments that the Commission should adopt this proposal by the Joint Board in order to eliminate the arbitrary jurisdictional division of responsibility for support to high–cost areas.[10] At the present time, only one–quarter of the NTS costs are classified as interstate, so that Federal high–cost assistance does not cover most of the expenses that are incurred for access to the switched network. State regulators are charged with the development and administration of any universal service programs relating to 75 percent of the access costs in their jurisdictions. GSA

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6 Federal–State Joint Board on Universal Service, CC Docket No. 96–45, *Report and Order,* 12 FCC Rcd 8776 (1977) ("*Universal Service Order*"), as corrected by Federal–State Joint Board on Universal Service, *Errata* , CC Docket No. 96–45, FCC 97–157 (released June 4, 1997), appeal pending in *Texas Office of Public Utility Counsel v. FCC,* No. 97–60421 (5th Cir. 1997).

7 Recommended Decision, para. 10.

8 *Id.*, para. 5.

9 *Id.*, paras. 23–30.

10 Comments of GSA, pp. 3–6.

explained that this division of the burden of universal service support impairs efforts to meet the mandate of the Telecommunications Act that access to services be available for all potential subscribers.[11]

Although most parties submitting comments concurred with the recommendation to eliminate the jurisdictional division, several parties contend that the existing procedures should not be modified. For example, Ameritech asserts that the Commission "should be reluctant to embrace the Board's recommendations that would radically modify the high–cost support proposal for non–rural carriers in the *Universal Service Order*."[12] According to Ameritech, the Commission should maintain jurisdictionally separate funds.[13]

Most carriers, however, endorse a unified interstate/intrastate approach. For example, AT&T states that Board's proposal to replace the current division of responsibility with a two–step process is now appropriate.[14] Similarly, NECA states that the Joint Board should be commended for recognizing that the existing jurisdictional separations procedure may no longer be viable and may force many smaller local exchange carriers ("LECs") to increase their access charges.[15]

State regulators also support the change proposed by the Joint Board. In their combined comments, regulators of eight states observe that the Joint Board's recommendation to replace the jurisdictional division of responsibility for high–cost support "addresses concerns raised by states with high–cost areas and low population densities, and is a major step towards ensuring reasonably comparable and

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11 *Id.*, p. 6.

12 Comments of Ameritech, p. 1.

13 *Id.*, p. 9.

14 Comments of AT&T Corp. ("AT&T"), p. i.

15 Comments of National Exchange Carrier Association ("NECA"), p. 2.

affordable rates."[16] The New York Department of Public Service ("NYDPS") also concurs "with the general thrust of the Joint Board's analysis and, in particular, its conclusions with respect to the appropriate purposes and size of the Federal high–cost mechanism."[17]

In summary, comments submitted by carriers and regulatory agencies demonstrate that the Joint Board has outlined a potentially beneficial plan. However, as GSA explained in Its Comments, the proposed plan has many unspecified parameters that the Commission must address before the plan can be implemented.[18]

B. Many parties agree with GSA that the Joint Board's proposal should be developed in more detail.

A number of parties complain that the Joint Board's proposal is lacking in necessary detail. GSA is convinced that endorsements would be wider and more beneficial if the plan were specified more completely.

Comments by the Public Utilities Commission of Ohio demonstrate the importance of a more complete description of the proposal. This agency identifies several aspects of the plan that it believes are "not explicitly defined" and several recommendations that it considers "vague."[19] The agency concludes, "Until such details are forthcoming, the Ohio Commission continues to support the 75/25 split of responsibility between the state and Federal jurisdictions."[20]

SBC Communications ("SBC") shows a similar concern from the perspective of a major local exchange carrier. SBC states that a review of the Recommended

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16 Comments of the Arkansas, Kansas, Maine, Montana, New Hampshire, New Mexico, Vermont and West Virginia Regulatory Agencies, p. 1.

17 Comments of NYDPS, p. 3.

18 Comments of GSA, p. 4.

19 Comments of the Public Utilities Commission of Ohio, p. 3.

20 *Id.*, p. 4.

Decision indicates a failure on the part of the Joint Board to describe, with the level of specificity required, precisely how its plans would be implemented.[21] SBC concludes that because of these omissions, the Joint Board has not sufficiently competed the task that was assigned by the Commission.[22]

Indeed, GSA acknowledged in its Comments that the proposed plan has many unspecified parameters.[23] For example, the Recommended Decision does not explain how costs would be compared with a national average to determine the extent of the total support. The present procedures employ two sets of stepped cost adjustment formulas — one for study areas with less than 200,000 local loops, and the other for larger study areas.[24] According to both formulas, eligibility for high–cost assistance begins when the local loop costs for a study area are 115 percent of the national average.[25] The Recommended Decision does not discuss whether similar formulas, now employed only for "interstate" costs, would be employed to determine eligibility, as well as the level of high–cost support, when applied to the total of interstate and intrastate NTS costs.

In addition, the Recommended Decision is silent on issues concerning assessment of a state's ability to meet the total support requirements. In fact, the Recommended Decision does not indicate whether quantitative criteria would be applied, or whether the apportionment would be a matter for *ad hoc* resolution. In either case, the apportionment of support between Federal and state programs may be

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21 Comments of SBC, p. 2.

22 *Id.*, p. 2, citing In the Matter of the Federal and State Joint Board on Universal Service, *Order and Order on Reconsideration*, CC Docket No. 96–45, released July 17, 1998.

23 Comments of GSA, pp. 4–5.

24 Monitoring Report, Table 3.1, p. 144.

25 *Id.*

contentious. For example, local regulators are likely to claim that a state has minimum available resources in order to increase the share of the total support to be provided by the Federal government.

In spite of the fact that the plan must be specified in greater detail, and the fact that implementation may be contentious, the approach described in the Recommended Decision is preferable to the current arbitrary division of responsibility. Therefore, GSA urges the Commission to direct the Joint Board to develop the proposal in more detail so that consumers will realize the benefits of a more coordinated approach to universal service as soon as possible.

III. THE COMMISSION SHOULD NOT EMPLOY APPROACHES THAT RELY ON HISTORICAL COSTS AND COMPANY–SPECIFIC COST MODELS.

A. Contrary to assertions by some carriers, it is essential that forward–looking costs be used to calculate the needs for high–cost support.

The Joint Board recommends that the requirements for high–cost support be determined on the basis of forward–looking economic costs.[26] GSA explained in its Comments that forward–looking economic costs are the appropriate approach because decisions based on these costs will send the correct signals for entry into telecommunications markets and for investment in telecommunications services.[27]

LECs discredit the use of forward–looking economic cost models. For example, an economic consultant to telephone companies serving rural areas, ITC, complains that forward–looking costs are too theoretical in nature.[28] ITC asserts that forward–looking costs may not reflect the costs of providing service, that usually there is no

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26 Recommended Decision, para. 12.

27 Comments of GSA, pp. 6–7..

28 Comments of ITC, Inc. ("ITC"), p. 4.

"correct" answer when dealing with these costs, and that there is little prospect of carrier accountability if they are used.[29]

Another association of local exchange carriers, the United States Telephone Association ("USTA"), also contends that a number of problems exist with employing forward–looking cost models to distribute high–cost support.[30] USTA notes that Joint Board members have acknowledged the shortcomings in their individual statements.[31]

GSA urges the Commission to recognize that these claims parallel those of local exchange carriers who previously urged the Commission to avoid proxy models in favor of more direct approaches that employ "actual" cost data.[32] However, as GSA explained in its Comments, it is not possible to obtain "actual" cost data for the future.[33] Actual cost data will always represent current or historical conditions, and will necessarily reflect historical operational practices and technologies installed in past years. In making economic decisions, it is preferable to consider forward–looking costs, even if they reflect estimates and judgments concerning the future.

The Commission has found that the use of forward–looking economic costs will encourage efficiency because these costs model the activities of efficient carriers.[34] In contrast, embedded costs are not necessarily economically efficient. AT&T explains:

> [t]he use of embedded costs would reward LEC inefficiency, provide windfall subsidies to incumbents that could be used to thwart competitive entry, encourage uneconomic entry based on bloated

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29 *Id.*

30 Comments of United States Telephone Association ("USTA"), pp. 5

31 *Id.*, p. 6.

32 Comments of GSA, p. 8.

33 *Id.*

34 *Universal Service Order*, para. 225.

subsidies, and burden consumers nationwide who must pay for the program.[35]

GSA concurs with AT&T that forward–looking approaches provide a superior foundation for the computation of high–cost support requirements.

Also, as GSA explained, the use of forward–looking economic costs is consistent with the Commission's prescriptions for unbundled network elements ("UNEs") and interconnection services.[36] In the *Local Competition Order*, the Commission determined that UNEs and interconnection services should be priced on the basis of forward–looking economic costs.[37] The Commission's rational for using forward–looking costs as the foundation for pricing UNEs and interconnection services supports the same approach in assessing the needs of non–rural carriers for high–cost support.

Moreover, the alternative of using embedded costs has an additional disadvantage because carriers with competition view their current cost data and cost relationships as proprietary to their own interests. Estimates produced by using non–proprietary economic cost models are generally more understandable and more assessable to other users. Thus, they have greater credibility as a standard for important financial decisions. As MCI WorldCom notes, "it is ludicrous to believe that more parties have open access to the accounting data on individual incumbent LECs than have open access to forward–looking cost models."[38]

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35 Comments of AT&T, p. 3.

36 Comments of GSA, p. 7.

37 Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, *First Report and Order*, 11 FCC Rcd 15499 (1996), ("Local Competition Order") *stayed in part sub. nom. Iowa Utils Bd. v. FCC*, 109 F 3rd 418 (8th Cir. 1996), paras. 618–622.

38 Comments of MCI WorldCom, p. 11.

GSA's experience confirms MCI WorldCom's observations. As GSA stated in Its Comments, LECs presenting the costs of UNEs and interconnection services to state regulatory bodies have unnecessarily relied on data that they designated as "proprietary."[39] To ensure accurate and unbiased estimates of costs, all parties must be able to verify the accuracy of the underlying data, as well as the validity of the cost relationships. Since it is difficult to verify the accuracy of proprietary data, estimates obtained from this data are no more reliable than estimates obtained from proxy cost models.

B. Previously identified improvements in proxy cost models will improve their accuracy in estimating forward–looking costs.

In comments opposing the use of forward–looking economic costs, GTE focuses on alleged defects in the models previously considered by the Commission.[40] For example, GTE asserts that even through the models appear complex, they actually operate on relatively little information about each local area. In fact, most of the results are driven by the assumptions and heuristics that the models contain.[41] GTE also asserts that collection of input data has proven difficult and controversial.[42]

As GSA has explained, carriers and other parties have identified steps to improve the accuracy of proxy models in estimating forward–looking economic costs.[43]. MCI WorldCom notes that significant progress is being made to improve these models.[44] As this carrier observes, the Commission staff has constructed a cost

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39 Comments of GSA, p. 10.

40 Comments of GTE, p. 25.

41 *Id.*, p. 25.

42 *Id.*

43 Comments of GSA, p. 9.

44 Comments of MCI WorldCom, p. 9.

model that incorporates methodologies developed by the entire telecommunications industry.

MCI WorldCom and other interested parties are continuing to work with the Commission staff in an open deliberative process.[45] Improvements in models have been reported. For example, Version 5.0 of the Hatfield Model incorporates:

- actual geocoded customer locations;
- an algorithm that identifies clusters of customers that may be efficiently serviced together without recourse to arbitrary geographic limitations;
- numerous optimization routines that ensure use of the outside plant that is the most technically and economically suited to particular local conditions;
- explicit specification of host, remote and stand–alone switches;
- an optimizing algorithm for the creation of efficient interoffice transport rings; and
- opportunities to allocate expenses based either on line counts or relative investments.[46]

As these brief descriptions show, proxy models can provide detailed representations of economically efficient technologies and forward–looking network configurations.

In summary, the cost models existing today need some improvements, but they should not be discarded in favor of approaches that rely on current plant designs, "proprietary" input data, and embedded plant technology.

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45 *Id.*

46 Hatfield Model Release 5.0, *Model Description.*

IV. THE COMMISSION SHOULD NOT HEED PETITIONS BY SEVERAL CARRIERS TO ACCEPT THE PROPOSAL TO AVERAGE COSTS OVER STUDY AREAS.

A. Averages for study areas do not represent the costs or competitive conditions in most of their constituent parts.

GSA does not concur with one aspect of the Joint Board's proposed plan — the recommendation to develop cost estimates by averaging over study areas. Averages for such large regions will not be representative of the costs or competitive conditions in most of their constituent parts. In its Comments, GSA recommended use of census–based boundaries, with a variable size standard to ensure that averages are computed only for reasonably homogeneous areas.[47]

A few carriers endorse the Joint Board's proposal to use averages for study areas, an approach that the Commission rejected two years ago.[48] For example, BellSouth states that the Joint Board's recommendation that high–cost support be calculated on a study area basis is "a workable approach."[49] According to BellSouth, use of the study area for averaging would be consistent with the Commission's commitment "to hold states harmless" so that they may continue to receive the same level of support as they do at the present time.[50]

AT&T also supports the Joint Board's recommendation that the Commission assess the need for high–cost support at the study area level.[51] This position reflects AT&T's claim that calculation of subsidies at the more geographically disaggregated

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47 Comments of GSA, pp. 10–13.

48 *Universal Service Order*, 12 FCC Rcd at 8884, para. 193.

49 Comments of BellSouth Corporation ("BellSouth"), p. 8.

50 *Id.*

51 Comments of AT&T, p. 4.

wire center level would require a larger fund because it would fail to take into account the offsetting impacts of lower–cost wire centers located within the same study area.[52]

As GSA has explained, the Commission should reject proposals to average over such large and diverse regions.[53] The arguments advanced by proponents of this approach do not change GSA's position on this matter. Indeed, the total support provided at the state level could still be maintained at or above the present total — that is, the state would be "held harmless" — if the costs were determined by geographical areas such as census block groups or wire center service areas. A supplemental "hold harmless" payment could be employed to avoid reduction in funding for the program in any state. Using this approach, the need for an additional payment could be evaluated by comparing the present support level for the state with the total assistance level indicated by addition of the requirements for the census block groups or wire center service areas contained within the jurisdiction.

Similarly, the Commission should not heed any claim that determination of costs at a geographically disaggregated level would be more costly on a total nationwide basis. Actually, the use of disaggregated costs would be a <u>less</u> costly way to achieve the same total benefit because it would be targeted more specifically to high–cost areas, as other carriers have explained.

B. Approaches using averages for smaller geographical areas are more equitable and more specifically targeted to the needs for high–cost areas.

Comments submitted by LECs, state regulators, and other carriers effectively counter proposals to base high–cost support on cost averages for study areas. For example, SBC explains that broad averages are inequitable:

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52 *Id.*

53 Comments of GSA, pp. 10–12.

> The study area is simply too broad, encompassing both low–cost and high–cost wire centers. Thus, it will enable carriers which serve, primarily or exclusively, low–cost customers in metro areas to receive Federal support for those customers because they are located in a study area which is also comprised of high–cost customers served by other carriers.[54]

GSA concurs with SBC that the inherent inequity in the use of study areas for averaging strongly discredits this approach.

In addition to being inequitable, averages over large areas waste resources because they do not target the carriers with the greatest needs for high–cost assistance. The Wyoming Public Service Commission explains in its comments that use of study area averages conflicts with the objective, articulated in the Recommended Decision, that the high–cost methodology should be "grounded in the principle that additional Federal high–cost support should be targeted to areas with the greatest need."[55] The Commission's comments include a calculation for sections of Wyoming, demonstrating quantitatively that study area averages do not provide well targeted support.

Western Wireless also explains in its comments that the Commission should adhere to its initial decision to use a relatively small geographic unit to measure forward–looking costs in assessing the need for high–cost support.[56] This carrier provides quantitative comparisons between support flows with different averaging bases to demonstrate that study–area averaging would undermine the competitive neutrality of the high–cost assistance program.[57] The carrier's calculations show that

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54 Comments of SBC Communications, Inc. ("SBC"), pp. 4–5.

55 Comments of Wyoming Public Service Commission, p. 4, citing Recommended Decision, paras. 41 and 58.

56 Comments of Western Wireless Corporation ("Western Wireless"), pp. 6–11.

57 *Id.*

an explicit universal service mechanism based on study areas effectively perpetuates the implicit subsidization of high–cost subscribers by urban low–cost subscribers.[58]

As Western Wireless explains, the distribution of high–cost support on a study area basis will condemn rural consumers to perpetual dependence on incumbent LECs, and on implicit support through the geographic averaging inherent in the incumbent LECs' rate structures.[59] The use of study area averages, Western Wireless states:

> [w]ould have the perverse effect of artificially encouraging competitive entry exclusively in urban and low–cost areas, and discouraging competitive entry in high–cost areas. This is the opposite of what the 1996 Act contemplates for the new competitive telecommunications regime.[60]

GSA confirms this assessment, and concurs in urging the Commission not to determine the requirements for high–cost support on the basis of cost averages for study areas.

V. CONTRARY TO RECOMMENDATIONS BY SEVERAL CARRIERS, THE COMMISSION SHOULD PRESCRIBE GUIDELINES CONCERNING RECOVERY OF UNIVERSAL SERVICE CONTRIBUTIONS FROM CONSUMERS.

A. Carriers seek excessive flexibility in setting and describing charges for end users.

GSA explained in its Comments that the Commission should provide specific guidance to carriers concerning recovery of universal service contributions from consumers.[61] For example, any line item charges on invoices associated with alleged universal service obligations should not exceed the assessment rate on the carrier, or

58 *Id.*, p. 9.

59 *Id.*, p. 10.

60 *Id.*

61 Comments of GSA, pp. 14–17.

a proportionate share of a carrier's total universal service obligation.[62] Moreover, carriers should provide their customers with clear and complete explanations of all charges to recover universal service assessments that appear on their invoices.[63]

Carriers and their associations seek a great deal of flexibility in obtaining reimbursements from end users. For example, USTA urges the Commission not to adopt any of the constraints on billing practices described in the Recommended Decision because carriers "must be afforded the flexibility to conduct themselves responsibly in their billing contacts without unnecessary regulatory burdens."[64]

Similarly, Dobson Communications, a wireless service provider, states that the Commission should not adopt any new bill content or format regulations governing the recovery of universal service contributions from consumers.[65] This carrier specifically asserts that "truth–in–billing" proposals advanced by the Joint Board are "unjustified in law and fact."[66] Dobson Communications claims that its own invoices contain all of the information necessary for consumers to understand the nature of the costs, not because of regulatory fiat, but to prevent confusion and to retain customers in a competitive market place.[67]

GSA urges the Commission to reject claims that it should not play an active role in this matter. Dobson Communications may be providing complete and clear explanations to its subscribers, but as GSA noted in its Comments, billing practices by some carriers have resulted in confusion and disputes, even for large and

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62 *Id.*, pp. 14–16.

63 *Id.*, pp. 16–17.

64 Comments of USTA, p. 13.

65 Comments of Dobson Communications Corporation ("Dobson Communications"), pp. 3–4.

66 *Id.*, p. 7.

67 *Id.*

knowledgeable end users.[68] Significant competition has yet not developed in many telecommunications markets. The availability of alternative suppliers does not yet provide a check on the ability of carriers to employ deceptive or confusing billing practices.

Comments by state regulators and some carriers confirm the need for regulatory surveillance. For example, the Public Utilities Commission of Ohio notes that permitting any carrier to pass through universal service charges at a level greater than its universal service assessment "is both anti–competitive and misleading."[69] Moreover, this state agency expresses concern that carriers may describe charges in a way that leads consumers to believe that they are fixed by the Commission or by another regulator, so that consumers will be less likely to engage in comparative shopping among carriers.[70]

Comments by other state regulators express similar concerns. For example, the Illinois Commerce Commission ("ICC") notes concern with potential misrepresentation of a "universal service charge" as a "mandate" or "tax" that the consumer cannot legally avoid.[71] Consequently, the ICC recommends that the Commission exercise its authority to "monitor and/or approve language that carriers add on the customer's bill."[72]

The Rural Telephone Coalition, which represents more than 850 small and rural telephone companies, also agrees with the Joint Board's recommendation that the Commission provide carriers with strict guidance regarding the manner in which their

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68 Comments of GSA, pp. 14–15.

69 Comments of the Public Utilities Commission of Ohio, p. 9.

70 *Id.*

71 Comments of the Illinois Commerce Commission, p. 4.

72 *Id.*

bills depict charges used to recover universal service contributions.[73] Moreover, RTC states that carriers electing to itemize charges should be required to disclose that high–cost support has been included in rates in the past. RTC explains:

> Consumer understanding that support for universal service is not a new burden, and that communicating with many parts of the country might not be possible without it, can only enhance the Commission's ability to successfully implement the goals of the Act.[74]

From its perspective as an end user, GSA concurs with this observation. Therefore, GSA urges the Commission to adopt regulations requiring all carriers to provide documentation supporting the calculation of all charges, and to furnish end users with explicit, complete and clear written descriptions of all line items on bills.

B. The Commission should not require carriers to pass universal service assessments through to consumers.

In the *Universal Service Order*, the Commission concluded that contributors to the universal service support programs would be permitted, but not required, to recover their contributions through charges to subscribers. The Commission ruled that contributing carriers should have the flexibility to decide how to cover their universal service obligations.[75]

In its comments, US WEST proposes that the Commission eliminate this flexibility, and require carriers to recover universal service assessments through a uniform surcharge on billings to end users.[76] US WEST contends that this approach would eliminate confusion among consumers, and ensure that all carriers appear equal to end users in this respect.

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73 Comments of Rural Telephone Coalition ("RTC"), pp. 1, 24–25.

74 *Id.*, pp. 24–25.

75 *Universal Service Order*, 12 FCC Rcd. at 9210–11, para. 853.

76 Comments of US WEST Communications ("US WEST"), pp. 13–14.

GSA urges the Commission to reject US WEST's recommendation. From GSA's perspective, carriers should be given the ability to absorb the universal service assessments, by offsetting those costs of doing business with savings in other areas, and not employ surcharges at all. Confusion can be eliminated by requiring carriers to explain any charges to consumers in detail, as explained previously in these Comments.

GSA explained that many carriers should be able to absorb universal service assessments.[77] As GSA noted, interstate rates of return for LECs under price cap regulation ranged from 10.3 percent to 18.2 percent in 1997.[78] On the basis of these data, many carriers have the ability to meet the burden of universal service assessments and not pass costs to consumers. GSA urges the Commission not to adopt a procedure that prevents consumers from receiving the benefits of such rate reductions.

77 Comments of GSA, pp. 15–16.

78 *Id.*

VI. CONCLUSION

As a major user of telecommunications services, GSA urges the Commission to implement the recommendations set forth in these Reply Comments.

Respectfully submitted,

GEORGE N. BARCLAY
Associate General Counsel
Personal Property Division

Michael J. Ettner

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
1800 F Street, N.W., Rm. 4002
Washington, D.C. 20405
(202) 501–1156

January 13, 1999

CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 13th day of January, 1999, by hand delivery or postage paid to the following parties.

The Honorable William E. Kennard,
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Harold Furchtgott-Roth,
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Susan Ness,
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C 20554

The Honorable Michael K. Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C 20554

Editorial Offices
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Washington, DC. 20005

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20036

Richard B. Lee
Vice President
Snavely King Majoros
O'Connor & Lee, Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005

Sheryl Todd
Common Carrier Bureau
Federal Communications Commission
8th Floor
2100 M Street, N.W.
Washington, D.C. 20554

Michael J. Ettner